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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.  
1100 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 200057

**MAILED**

**MAR 10 2009**

**OFFICE OF PETITIONS**

In re Application of  
Mario Nemirovsky, et al.  
Application No. 09/602,279  
Filed: June 23, 2000  
Attorney Docket No. 1778.3120000 (0168.00US)

DECISION DISMISSING PETITION  
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 9, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until March 9, 2009, the date upon which the above-identified application issued as U.S. Patent No. 7,502,876. Since the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the \$810 filing fee and the \$130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (571) 272-3204.

*Sherry D. Brinkley*  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

NEMIROVSKY *et al.*

Appl. No. 09/602,279

Filed: June 23, 2000

For: **Background Memory Manager  
That Determines If Data  
Structures Fit in Memory With  
Memory State Transactions Map**

Confirmation No. 9147

Art Unit: 2182

Examiner: Peyton, Tammara R.

Atty. Docket: 1778.3120000 (0168.00US)

**Petition to Withdraw From Issue Under 37 C.F.R. § 1.313(c)(2)  
for Consideration of a Request for Continued Examination**

**Mail Stop Issue Fee**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Madam:

It is hereby petitioned under 37 C.F.R. § 1.313(c)(2) that the above-captioned application be withdrawn from issue for consideration of the accompanying request for continued examination in compliance with 37 C.F.R. § 1.114.

It is believed that no extensions of time are necessary, other than those that are otherwise provided for herewith. However, if extensions of time under 37 C.F.R. § 1.136 other than those provided herewith are required to prevent abandonment of the above-captioned application, then such extensions of time are hereby

Adjusted date: 03/12/2009 CKHLOK  
03/18/2009 INTFSW 00002516 09602279  
01 FC:1464 -130.00 OP  
02 FC:1801 -810.00 OP

Refund Ref:  
03/12/2009

0030067626

Credit Card Refund Total: \$940.00

Am Exp.: XXXXXXXXXX1005

This petition is accompanied by our Online Credit Card Payment Authorization in the amount of \$130.00 in payment of the required fee (37 C.F.R. § 1.17(h)). The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

*Timothy A. Doyle*  
Timothy A. Doyle  
Attorney for Applicants  
Registration No. 51,262

Date 9 MAR 09

1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934  
(202) 371-2600

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Request  
for  
Continued Examination (RCE)  
Transmittal

Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	09/602,279
Filing Date	June 23, 2000
First Named Inventor	Mario NEMIROVSKY
Art Unit	2182
Examiner Name	Peyton, Tammara R.
Attorney Docket Number	1778.3120000 (0168.00US)

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**  
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED			
Signature		Date	March 9, 2009
Name (Print/Type)	Timothy A. Doyle	Registration No.	51.262

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature		
Name (Print/Type)		Date

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

**REQUEST FOR PATENT FEE REFUND**

1 Date of Request: 3/10/10

2 Serial/Patent # 091002279

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